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*Attorneys for Defendants Nevada Service Employees  
 Union, Luisa Blue, and Martin Manteca*

**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

JAVIER CABRERA, an individual; DEBORAH  
 MILLER, an individual, CHERIE MANCINI,  
 an individual; NEVADA SERVICE  
 EMPLOYEES UNION STAFF UNION  
 (“NSEUSU”), an unincorporated association,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL  
 UNION, a nonprofit cooperative corporation;  
 LUISA BLUE, in her official capacity as Trustee  
 of Local 1107; MARTIN MANTECA, in his  
 official capacity as Deputy Trustee of Local  
 1107; MARY K. HENRY, in her official  
 capacity as Union President; CLARK COUNTY  
 PUBLIC EMPLOYEES ASSOCIATION dba  
 NEVADA SERVICE EMPLOYEES UNION  
 aka SEIU LOCAL 1107, a nonprofit cooperative  
 corporation; CAROL NIETERS, an individual;  
 DOES 1-20; and ROE CORPORATIONS 1-20,  
 inclusive,

Defendants.

Case No.: 2:18-cv-00304-RFB-DJA

**NOTICE OF RECENT EVENTS**

Nevada Service Employees Union (“Local 1107” or “1107”) hereby provides notice to the  
 Court of recent events.

1 This Court's Local Rules require attorneys to comply with "the Model Rules of Professional  
2 Conduct as adopted and amended from time to time by the Supreme Court of Nevada...." LR IA  
3 11-7. The Supreme Court of Nevada Rule of Professional Conduct 3.3, Candor Toward the  
4 Tribunal, and Model Rule of Professional Conduct 3.3 are consistent with one another.

5 Courts interpret Rule 3.3 to require the disclosure of additional information to the Court  
6 where that information may affect the court's decision. "It is appropriate to remind counsel that  
7 they have a 'continuing duty to inform the Court of any development which may conceivably affect  
8 the outcome' of the litigation." *Board of License Com'rs of Town of Tiverton v. Pastore*, 105 S.Ct.  
9 685, 686, 469 U.S. 238, 240 (1985); *quoting Fusari v. Steinberg*, 419 U.S. 379, 391, 95 S.Ct. 533,  
10 540, 42 L.Ed.2d 521 (1975) (BURGER, C.J., concurring). As one court has noted, "The [judicial]  
11 system can provide no harbor for clever devices to divert the search, mislead opposing counsel or  
12 the court, or cover up that which is necessary for justice in the end." *U.S. v. Shaffer Equipment*  
13 *Co.*, 11 F.3d 450, 457–58 (4th Cir. 1993). With that background, Local 1107 submits the attached  
14 Declaration of Grace Vergara-Mactal ("Grace") containing information recently received from the  
15 National Labor Relations Board ("NLRB").

16 This notice and the attached information are applicable to the mootness of Mr. Cabrera's  
17 claims as argued in the following Motions set to be argued on March 12, 2021:

- 18 1. Service Employees International Union's Motion for Summary Judgment, ECF No. 167;
- 19 2. Local 1107's Motion for Summary Judgment, ECF No. 168; and
- 20 3. Plaintiffs' Motion for Summary Judgment, ECF No. 172.

21 For further explanation to the Court and not to advance argument, Paragraph 8 of Grace's  
22 Declaration states that "Local 1107 continues to work within the NLRB's compliance process and  
23 intends to pay proper amounts to Mr. Cabrera that are factually and legally proper." This means  
24 that the NLRB's calculations must be properly verified and be factually and legally proper. By way  
25 of illustration, Mr. Cabrera has asked that the \$28,935.00 in pension contributions be paid to him  
26 directly. That money, however, most likely must be paid to the pension fund on Mr. Cabrera's  
27 behalf. Such issues will be evaluated and resolved through the NLRB's compliance process.

1 Dated March 11, 2021.

CHRISTENSEN JAMES & MARTIN

2 By: /s/ Evan L. James

3 Evan L. James, Esq.

4 Nevada Bar No. 7760

5 7440 W. Sahara Avenue

6 Las Vegas, NV 89117

7 Tel.: (702) 255-1718

8 Fax: (702) 255-0871

9 *Attorneys for Local 1107*

**CERTIFICATE OF SERVICE**

I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served in the following manner on the date it was filed with the Court's ECF System.

✓ ELECTRONIC SERVICE: Through the Court's E-Filing System to the following:

— VIA UNITED STATES MAIL:

Michael J. Mcavoyamaya, Esq. Email copy to: mcavoyamayalaw@gmail.com  
4539 Paseo Del Ray  
Las Vegas, NV 89121

Jonathan Cohen, Esq. Email copy to: jcohen@rsglabor.com  
Eli Naduris-Weissman, Esq. Email copy to: enaduris-weissman@rsglabor.com  
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Rothner, Segall & Greenstone  
510 South Marengo Avenue  
Pasadena, California 91101-3115

CHRISTENSEN JAMES & MARTIN

By: /s/ Evan L. James  
Evan L. James

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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JAVIER CABRERA, an individual; DEBORAH  
 MILLER, an individual, CHERIE MANCINI,  
 an individual; NEVADA SERVICE  
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 LUISA BLUE, in her official capacity as Trustee  
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 aka SEIU LOCAL 1107, a nonprofit cooperative  
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 DOES 1-20; and ROE CORPORATIONS 1-20,  
 inclusive,

Defendants.

Case No.: 2:18-cv-00304-RFB-DJA

**DECLARATION OF GRACE VERGARA-  
 MACTAL**

I, Grace Vergara-Mactal, hereby declare as follows:

1. I have personal knowledge of the information set forth herein.
2. I am under no adverse influence that would affect my testimony in this Declaration.

1 3. I am over the age of 18 years.

2 4. I currently serve as Executive Director of the Defendant named as Clark County Public  
3 Employees Association dba Nevada Service Employees Union aka SEIU Local 1107  
4 ("Local 1107").

5 5. On March 2, 2021, Local 1107 Counsel Michael Urban received the email from the National  
6 Labor Relations Board ("NLRB") that is attached hereto as Exhibit A ("NLRB Email").

7 6. Exhibit B attached hereto is the NLRB Backpay calculation for Mr. Cabrera that was  
8 attached to the NLRB Email.

9 7. Exhibit C attached hereto is the NLRB Backpay Adjusted Taxes for Lump Sum Backpay  
10 calculation for Mr. Cabrera that was attached to the NLRB Email.

11 8. Local 1107 continues to work within the NLRB's compliance process and intends to pay  
12 proper amounts to Mr. Cabrera that are factually and legally proper.

13 I declare under penalty of perjury under the laws of the United States of America that the  
14 foregoing is true and correct.

15 Executed on March 10, 2021.

  
\_\_\_\_\_  
Grace Vergara-Mactal

## **EXHIBIT**

**A**

**NLRB EMAIL**

**To:** Evan James <[elj@cjmlv.com](mailto:elj@cjmlv.com)>

**Subject:** Javier Cabrera - Case 28-CA-209109

----- Forwarded message -----

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**From:** Moore, Tamilyn A. <[Tamilyn.Moore@nlrb.gov](mailto:Tamilyn.Moore@nlrb.gov)>

**Sent:** Tuesday, March 2, 2021 8:13 AM

**To:** Michael Urban <[MUrb@theurbanlawfirm.com](mailto:MUrb@theurbanlawfirm.com)>

**Subject:** Case 28-CA-209109

Mr. Urban,

I have completed the calculations of Mr. Cabrera's backpay with interest and excess tax based on a March 15, 2021 payoff date. The first attached document shows quarterly totals for Mr. Cabrera's backpay, interim expenses, and medical expenses on page 1 and pension payments on page 2. The second document shows the annual taxable income for Mr. Cabrera and the total excess tax he is owed based on the annual taxable income.

To summarize, Mr. Cabrera's Net Backpay is \$77,233. His interim expenses and medical expenses are \$2,466. The interest on those amounts with a March 15, 2021 payoff date is \$10,451. The excess taxes with a March 15, 2021 payoff date, owed to Mr. Cabrera for his backpay, expenses, and interest is \$2,016. Mr. Cabrera is owed \$28,935 in pension payments and \$3,321 interest on that amount. Mr. Cabrera has asked that the pension payment be made to him, not the Union fund. If Respondent agrees to these amounts, it should make out at least three checks to Mr. Cabrera. One check for his Net Backpay, one check for his Pension Payments, and one check for expenses, interest, and excess tax. Deductions at the rate for Mr. Cabrera during his employment should be taken from the Net Backpay and Pension Payments. No deductions should be taken from the expenses, interest, and excess tax.



Please let me know if you have any questions about the amounts in these calculations and whether Respondent agrees with these calculations. Please let me know by close of business March 5, 2021 whether Respondent agrees to pay these amounts to Mr. Cabrera. I am going to provide these numbers to Mr. Cabrera today as well to determine if he is in agreement with our calculations or if he plans to request a compliance determination. Please do not issue any checks before I let you know whether Mr. Cabrera plans to file a request for a compliance determination.

Thank you,

*Tamilyn*

Tamilyn A. Moore  
Compliance Officer  
Centralized Compliance Unit  
Office: 513-684-3669  
Mobile:  
Fax: 513-684-3946  
Website: [www.nlr.gov](http://www.nlr.gov)

\*\*\*Electronic filing of charges, petitions, position statements and documentary evidence through the Agency website is **required**. Use this link to e-file [new Charges and Petitions](#). Use this link to e-file [Case Documents](#). See this link for information on the [NLRB Mandatory E-Filing Policy](#).

E-filing User Guide: <https://apps.nlr.gov/myAccount/assets/E-Filing-System-User-Guide.pdf>.

Website help: [e-filing@nlrb.gov](mailto:e-filing@nlrb.gov).

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In Unity,

Grace T. Vergara-Mactal  
Executive Director  
SEIU Nevada Local 1107  
Cell:

*"Integrity is doing the right thing, even when no one is watching."*

--- CS Lewis

## **EXHIBIT**

**B**

**NLRB BACK PAY  
CALCULATIONS**

## NLRB Backpay Calculation

1

Case Name: Service Employees International Union Local 1107

Case Number: 28-CA-209109

Backpay period:

Claimant: Javier Cabrera

10/31/2017-10/21/2019

Interest  
calculated to: 3/15/2021

Year	Qtr		Gross Backpay	Quarter Interim Earnings	Net Backpay	Interim Expenses	Medical Expenses	Net Backpay & Expenses
2017	4	Total	11,393		11,393	296	-	11,690
2018	1	Total	20,641		20,641	562	-	21,203
2018	2	Total	16,978	8,210	8,768	454	-	9,222
2018	3	Total	20,641	6,842	13,799	359	20	14,179
2018	4	Total	16,978	9,800	7,178	298	26	7,502
2019	1	Total	21,056	15,898	5,158	148	-	5,305
2019	2	Total	17,090	15,622	1,469	109	-	1,578
2019	3	Total	19,095	14,398	4,697	138	-	4,834
2019	4	Total	4,130		4,130	56	-	4,186

Totals	77,233	2,420	46	<b>79,698</b>
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<b>Net Backpay (Withholdings)</b>	<b>77,233</b>
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<b>Expenses (No Withholdings)</b>	<b>2,465</b>
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<b>Daily Compound Interest (No Withholdings)</b>	<b>10,451</b>
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<b>Total Backpay, Expenses and Interest</b>	<b>90,149</b>
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## Notes

- 1/ Gross backpay accounts for wages, auto allowance of \$500 per month, bilingual pay of \$75 per pay period.
- 2/ Interim earnings with UFCW account for wages and auto allowance of \$500 per month. Auto allowance ends mid Ju
- 3/ For explanation of Interim and Medical Expenses see <https://nrxgendocs.nlr.gov:8443/nlr/do/OpenDocume>
- 4/
- 5/
- 6/
- 7/
- 8/

## NLRB Backpay Calculation

2

Case Name: Service Employees International Union Local 1107

Case Number: 28-CA-209109

Backpay period:

Claimant: Javier Cabrera

10/31/2017-10/21/2019

Interest  
calculated to: 3/15/2021

Year	Qtr		Pension Payments	Quarter Interim Earnings	Net Backpay	Interim Expenses	Medical Expenses	Net Backpay & Expenses
2017	4	Total	2,079		2,079	-	-	2,079
2018	1	Total	3,915		3,915	-	-	3,915
2018	2	Total	3,355	-	3,355	-	-	3,355
2018	3	Total	3,915	-	3,915	-	-	3,915
2018	4	Total	3,355	-	3,355	-	-	3,355
2019	1	Total	4,002	-	4,002	-	-	4,002
2019	2	Total	3,437	-	3,437	-	-	3,437
2019	3	Total	4,010	-	4,010	-	-	4,010
2019	4	Total	867		867	-	-	867

Totals	28,935	-	-	<b>28,935</b>
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<b>Net Backpay (Withholdings)</b>	<b>28,935</b>
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<b>Expenses (No Withholdings)</b>	<b>-</b>
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<b>Daily Compound Interest (No Withholdings)</b>	<b>3,321</b>
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<b>Total Backpay, Expenses and Interest</b>	<b>32,256</b>
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## Notes

- 1/ Note: 2.5% increase effective, 01/01/19.
- 2/ Returning to work on 10/21/19.
- 3/ Pension contribution rate: 2017 - 20%, 2018 and 2019 - 21%
- 4/
- 5/
- 6/
- 7/
- 8/

## **EXHIBIT**

**C        NLRB ADJUSTED TAXES**

## Adjusted Taxes for Lump Sum Backpay

Case Name: Service Employees International Union Local 1107  
Case Number: 28-CA-209109  
Claimant: Javier Cabrera

Year	Taxable Income (Backpay)	Filing Status	State	Federal Tax	State Tax
2017	11,393	Married Filing Jointly/Widower	NV	1,139	0
2018	50,386	Married Filing Jointly/Widower	NV	5,665	0
2019	15,453	Married Filing Jointly/Widower	NV	1,545	0
<b>Taxes Paid:</b>				8,350	0
2000 to 2020	(Sum) 77,232	Married Filing Jointly/Widower	NV	8,873	0
2021	0				
Excess Tax on Backpay:				520	0
Incremental Tax on Backpay:					71
<b>Total Excess Tax on Backpay:</b>					<b>591</b>
Interest on Backpay:	10,451				
Tax on Interest:				1,254	0
Incremental Tax on Interest:					171
<b>Total Excess Tax on Interest:</b>					<b>1,425</b>
<b>Additional Tax Liability:</b>					<b>0</b>
<b>Total Excess Tax Liability:</b>					<b>2,016</b>